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INDIANA READY MIXED CONCRETE PRODUCER AND FOUR EXECUTIVES AGREE TO PLEAD GUILTY TO PRICE-FIXING CHARGE

Company Sentenced to Pay \$29 Million Fine - Largest Fine in a Domestic Antitrust Investigation

WASHINGTON, D.C. – Irving Materials Inc., a ready mixed concrete producer in Greenfield, Indiana, pleaded guilty and was sentenced to pay a \$29.2 million criminal fine for fixing the price of ready mixed concrete in the Indianapolis, Indiana metropolitan area, the Department of Justice announced today. The fine is the largest ever in a domestic antitrust investigation. Additionally, four executives have agreed to plead guilty, pay criminal fines, and serve time in prison for their roles in the same conspiracy. All of the executives have agreed to assist the government in its ongoing investigation.

In a felony case filed in the U.S. District Court in Indianapolis, Irving Materials Inc., Daniel C. Butler, John Huggins, Fred R. “Pete” Irving, and Price Irving were charged with conspiring with their competitors to fix the price of ready mixed concrete sold in the Indianapolis metropolitan area from approximately July 2000 until May 2004. One of the executives, Pete Irving, has agreed to pay a \$200,000 fine and the other three executives have agreed to pay \$100,000 fines each for their role in the conspiracy. The four executives charged have also agreed to serve five months in prison, followed by five months of home detention. The pleas of the executives are subject to court approval.

Ready mixed concrete is a product whose ingredients include cement, aggregate (sand and gravel), water, and, at times, other additives. Ready mixed concrete is made on demand and, if necessary, is shipped to work sites by concrete mixer trucks. It is purchased by do-it-

yourself customers and commercial customers, as well as local, state, and federal governments for use in various construction projects, including sidewalks, driveways, bridges, tunnels, and roads.

“This conspiracy cheated virtually everyone who purchased ready mixed concrete in the Indianapolis market for nearly four years,” said Scott D. Hammond, the Antitrust Division’s Deputy Assistant Attorney General for Criminal Enforcement. “Regardless of whether you were a homeowner fixing your driveway, a business constructing a new facility, or a taxpayer funding a public construction project, consumers paid more than they should have because the defendants and their co-conspirators secretly met and fixed the prices of ready mixed concrete.”

Irving Material Inc. and its executives are charged with carrying out the conspiracy with their co-conspirators by:

- Engaging in discussions regarding the prices at which each would sell ready mixed concrete;
- Agreeing during those discussions to specific price increases for ready mixed concrete and to the timing of those price increases;
- Issuing price announcements and/or price quotations in accordance with the agreements reached;
- Selling ready mixed concrete pursuant to those agreements at collusive and noncompetitive prices;
- Accepting payment for ready mixed concrete sold at the agreed-upon collusive and noncompetitive prices; and
- Authorizing or consenting to the participation of subordinate employees in the conspiracy.

In a separate conspiracy, Larry L. Lee, the former president of Lee’s Ready Mix Trucking Inc. pleaded guilty on May 13, 2005 to fixing the price at which ready mixed concrete was sold in the Indiana counties of Bartholomew, Jackson, and Jennings. Lee, who is awaiting

sentencing, has agreed to serve eight months in prison and to pay a \$70,000 criminal fine. On May 18, 2005, Lee's Ready Mix & Trucking Inc. was indicted for its role in the Bartholomew, Jackson, and Jennings ready mix concrete conspiracy, and on June 16, 2005, the company filed a petition to enter a guilty plea.

Irving Materials Inc. and its four executives were charged with price fixing in violation of Section 1 of the Sherman Act (15 U.S.C. § 1), which for violations occurring before June 22, 2004 carries a maximum fine of \$10 million for a corporation and a maximum penalty for an individual of three years imprisonment and a \$350,000 fine. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine. In addition, the defendant could be ordered to pay restitution for the full amount of the victim's loss.

Today's charge resulted from the Antitrust Division's ongoing investigation of the ready mixed concrete industry being conducted by its Chicago Field Office in conjunction with the Indianapolis office of the Federal Bureau of Investigation (FBI) and the U. S. Attorney's Office for the Southern District of Indiana.

Anyone with information concerning price fixing or other anticompetitive conduct in the ready mixed concrete industry should contact the Chicago Field Office of the Antitrust Division at 312-353-7530 or the Indianapolis office of the FBI at 317-639-3301. All press inquiries should be directed to the Office of Public Affairs Office at the Department of Justice at 202-514-2007.

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